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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/694,304

10/27/2003

David M. Allen

DMA-10002/36

3573

25006 7590 05/14/2007
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

EXAMINER

GILBERT, WILLIAM V

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

05/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/694,304 | Applicant(s) ALLEN, DAVID M. | |
| | Examiner William V. Gilbert | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a non-final action. Applicant canceled Claims 14 and 15. Claims 1-13, 16 and 17 are pending below.

Claim Objections

1. Claims 1, 16 and 17 are objected to because of the following informalities: In each claim the preamble is for a baseboard assembly, yet in each claim Applicant claims the baseboard in combination with a junction region (see, e.g. Claim 1, line 6 "the base portion is **positioned** in the junction region..."). If Applicant intends to claim only the baseboard, appropriate language should be used (e.g. "base portion is **positionable** in the junction region..."). Appropriate correction is required.

Claim 2 is objected to because of the following informalities: in the claim the preamble is for a baseboard assembly, yet Applicant claims the baseboard in combination with a wall and floor (line 3). Examiner suggests using language as noted above to correct this (assuming Applicant wants to claim only the baseboard).

Claim 4 is objected to because of the following informalities: in the claim the preamble is for a baseboard assembly, yet Applicant claims the baseboard in combination with

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a wall (line 2). Examiner suggests using language as noted above to correct this (assuming Applicant wants to claim only the baseboard).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baum (U.S. Patent No. 1,585,960).

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Claim 1: Baum discloses a baseboard assembly (Fig. 2) having a base portion (7) with a front surface (proximate 7) a lower end and upper end (proximate 6), with the upper end sloped downwardly from the front surface to the back, and a top portion (3) having a back and front surface with upper and lower ends, the lower end (proximate 6) of the top surface being sloped downwardly from the front surface to the back surface and having an installed position wherein the back surface is adjacent to a wall (Fig. 1), the sloped lower end is adjacent the sloped upper end of the base portion, and the base portion and top portion have dissimilar cross sections when taken perpendicular to the respective back surfaces. Baum does not disclose the lower surface having an opposed back surface. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add a back surface to the lower member in Baum that would be placed against a wall in order to change the aesthetic appearance of the trim piece and Baum discloses that modifications and changes may be made without departing from the spirit of the invention (Page 2, lines 77-82).

Claim 2: the base portion and top portion are elongated members such that the base portion in the installed position extends along the wall adjacent the floor.

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Claim 3: Baum discloses the claimed invention except that the base and top portions have the same length in the elongated direction. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have the base and top portions the same length for aesthetic purposes.

Claim 4: while the base and top portions in Baum have a generally rectangular horizontal cross-section, Baum does not disclose one wall meeting an adjacent wall. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have the assembly at two adjacent walls because it is well known in the art to use trim at wall intersections.

Claim 5: the sloped surfaces of the top and bottom portions are the same with respect to the front and back surfaces (Fig. 2).

Claims 6-8: Baum discloses the claimed invention except for the angles of the slope. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have these angles because the prior art of record notes that the invention may be altered without departing from the spirit of the invention (lines 77-

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82), and to have angles within the claimed range would not depart from the spirit of the invention.

Claim 9: Baum discloses the claimed invention except that the thicknesses of the top and bottom portions are the same. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have the top and bottom portions as the same thickness for aesthetic purposes, and maintaining the same thickness of the trim is within the level of ordinary skill in the art.

Claim 10: the trim in Baum is of wood (line 75), but Baum does not disclose that it is a single piece of wood. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to use a single piece of wood in order to preserve timber and also for aesthetic purposes.

Claim 16: Claim 1: Baum discloses a baseboard assembly (Fig. 2) having a base portion (7) with a front surface (proximate 7), a lower end and upper end (proximate 6), with the upper end sloped downwardly from the front surface to the back, and the entire lower end is flat, and a top portion (3) having a back and front surface with upper and lower ends, the lower end (proximate 6) of the top surface being sloped downwardly from the front surface to the back surface and having an installed

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position wherein the back surface is adjacent to a wall (Fig. 1) and the sloped lower end is adjacent the sloped upper end of the base portion. Baum does not disclose the lower surface having an opposed back surface. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to add a back surface to the lower member in Baum that would be placed against a wall in order to change the aesthetic appearance of the trim piece and Baum discloses that modifications and changes may be made without departing from the spirit of the invention (Page 2, lines 77-82).

Claim 17: Baum discloses a baseboard assembly (Fig. 2) having a base portion (7) with a front surface (proximate 7), a lower end and upper end (proximate 6), with the upper end sloped downwardly from the front surface to the back, the lower end is flat, and a top portion (3) having a back and front surface with upper and lower ends, the lower end (proximate 6) of the top surface being sloped downwardly from the front surface to the back surface and having an installed position wherein the back surface is adjacent to a wall (Fig. 1) and the sloped lower end is adjacent the sloped upper end of the base portion. Baum does not disclose the lower surface having an opposed back surface that is perpendicular to the lower surface. It would have been obvious at the time the invention was made to a person having

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ordinary skill in the art to add a back surface to the lower member in Baum that would be placed against a wall in order to change the aesthetic appearance of the trim piece and Baum discloses that modifications and changes may be made without departing from the spirit of the invention (Page 2, lines 77-82).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baum as applied to claim 1 above, and further in view of Trutwin (U.S. Patent No. 6,202,380).

Claim 11: Baum discloses the claimed invention except that the base portion has a recess where the back surface meets the upper end. Trutwin discloses a baseboard with a cavity (29, 33) in the base portion (30) where the back surface meets the upper end. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to place a cavity in the trim as in Claim 1 in order to allow room for the installation of cables.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baum in view of Pinto (U.S. Patent No. 6,189,276).

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Claim 12: Baum discloses the claimed invention except that the top portion has a recess formed where the back surface meets the lower end. Pinto discloses a baseboard with a top and bottom portion (Fig. 6) and a recess in the top portion. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to place a cavity in the top portion of the board in Baum in order to allow for the installation of cables.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baum.

Claim 13: Baum discloses the claimed invention except for the method of forming the baseboard. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to form the baseboard by providing a board with a front and back surface and cutting the board lengthwise at a non-perpendicular angle to form the top and bottom surface, because the prior art in Baum is capable of being formed in such a manner.

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haberman (U.S. Patent No. 3,298,147); Gathercoal (U.S. Patent No. 2,007,224); Kasson (U.S. Patent No. 1,483,941); Dobija (U.S. Patent No. 4,008,549).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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